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EDWARD MILLER

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

EDWARD MILLER,

Plaintiff,

v.

APPTIO, INC. and CLOUDABILITY, INC.,  
et al.,

Defendants.

Case No. 4:19-cv-07762-HSG

JOINT STIPULATION FOR DISMISSAL  
WITH PREJUDICE AND [PROPOSED]  
ORDER

Judge: Hon. Haywood S. Gilliam, Jr.  
Courtroom: 2

Action Filed: November 25, 2019

**TO THIS HONORABLE COURT, ALL PARTIES HEREIN, AND THEIR  
RESPECTIVE ATTORNEYS OF RECORD:**

Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, and the Confidential Settlement Agreement and Release, Plaintiff EDWARD MILLER ("Plaintiff") and Defendants APPTIO, INC. and CLOUDABILITY, INC. (collectively, "Defendants"), by and through their respective attorneys, hereby submit the following Joint Stipulation for Dismissal with Prejudice.

1. Defendants deny any liability as to the claims asserted against them by Plaintiff.
2. The Parties withdraw and terminate all pending motions submitted in this action.
3. Each side shall bear its own attorney fees and costs.
4. The Court shall retain jurisdiction to enforce the terms of the Settlement Agreement and Release entered into by and between Plaintiff and Defendants on or about May 1, 2020.

WHEREFORE, the parties, by and through their counsel of record, hereby stipulate, pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, to the dismissal, with prejudice, of any and all claims against Defendants in the above-captioned matter, with each party to bear their own attorney fees and costs incurred in this action.

**IT IS SO STIPULATED.**

Dated: May 28, 2020

Respectfully Submitted,

By: /s/ Daniel Remer  
Daniel Remer

Attorney for Plaintiff  
Edward Miller

By: /s/ Howard Smukler  
Howard Smukler

Attorney for Plaintiff  
Edward Miller

1 Dated: May 28, 2020

HOGE, FENTON, JONES & APPEL, INC.

2  
3 By: /s/ Alison P. Buchanan

Alison P. Buchanan

4 Christen E. Bourne

5 Attorneys for Defendant  
6 Cloudability, Inc.

7 DAVIS WRIGHT TREMAINE LLP

8 By: /s/ Martin L. Fineman

Martin L. Fineman

9  
10 Attorneys for Defendants  
11 Apptio, Inc. and Cloudability, Inc.

**[PROPOSED] ORDER**

**IT IS SO ORDERED THAT THE STIPULATION IS APPROVED.**

Having read and considered the foregoing stipulation, the Court hereby orders the dismissal, with prejudice, of the any and all claims against Defendants APPTIO, INC. and CLOUDABILITY, INC. Each party will bear their own attorneys' fees and costs incurred in this action. The Court hereby retains jurisdiction to enforce the terms of the Confidential Settlement Agreement and Release entered into by and between Plaintiff EDWARD MILLER and Defendants APPTIO, INC. and CLOUDABILITY, INC.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Hon. Haywood S. Gilliam, Jr.

**ATTESTATION**

Pursuant to Civil Local Rule 5-1(i)(3), I attest that I obtained concurrence in the filing of this document from the other signatories.

Dated: May 28, 2020

HOGUE, FENTON, JONES & APPEL, INC.

By: /s/ Alison P. Buchanan

Alison P. Buchanan

Christen E. Bourne

Attorneys for Defendant  
Cloudability, Inc.